

LEVIN-EPSTEIN & ASSOCIATES, P.C.

60 East 42nd Street • Suite 4700 • New York, New York 10165
T: 212.792-0048 • E: Jason@levinepstein.com

October 18, 2023

Via Electronic Filing

The Hon. Sanket J. Bulsara, U.S.M.J.
U.S. District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Reyes Obando v. AMD Food Corp. et al*
Case No.: 23-cv-1681

Dear Honorable Magistrate Judge Bulsara:

This law firm represents Plaintiff Jonny Osmar Reyes Obando (the “Plaintiff”) in the above-referenced matter.

Pursuant to Your Honor’s Individual Motion Practice Rules, this letter respectfully serves to provide the Court with a status update in the above-referenced matter.

On September 18, 2023, Plaintiff filed an offer of judgment, and a notice of acceptance, pursuant to Federal Rule of Civil Procedure (“Fed.R.Civ.P.”) 68. [See Dckt. Nos. 19, 20]. On September 21, 2023, the Clerk of Court entered a judgment against Defendants, in favor of Plaintiff, in the total sum of \$9,000, pursuant to Fed.R.Civ.P. 68. [See Dckt. No. 21].

In light of the filing of the offer of judgment, and the notice of acceptance, pursuant to Fed.R.Civ.P. 68, it is respectfully submitted that *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015) is inapplicable to the instant action. *See Yu v. Hasaki Rest., Inc.*, 944 F.3d 395, 411 (2d Cir. 2019) (“Because] the FLSA does not require judicial approval of Rule 68(a) offers of judgment, we decline to extend Cheeks’ judicial approval requirement to that context.”); *see also Zang v. Daxi Sichuan, Inc.*, 2023 WL 2305934, at *8, fn.7 (E.D.N.Y. 2023) (“Though, the *Cheeks* reasonableness analysis does not apply here, of course, because it is a Rule 68 offer of judgment, and not a settlement agreement entered into by the parties.”) (quoting *Hasaki Rest., Inc.*, 944 F.3d at 411).

In light of the foregoing, it is respectfully submitted that the Court enter a final order, dismissing the instant action with prejudice.

Thank you, in advance, for your time and consideration.

Respectfully submitted,

LEVIN-EPSTEIN & ASSOCIATES, P.C.

By: /s/ Jason Mizrahi

Jason Mizrahi
60 East 42nd Street, Suite 4700
New York, NY 10165
Tel. No.: (212) 792-0048
Email: Jason@levinepstein.com
Attorneys for Plaintiff

VIA ECF: All Counsel